



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 17, 1998

### **H.R. 4057**

### **Airport Improvement Program Reauthorization Act of 1998**

*As ordered reported by the House Committee on Transportation and Infrastructure  
on June 25, 1998*

#### **SUMMARY**

H.R. 4057 would reauthorize funding for programs at the Federal Aviation Administration (FAA) for fiscal year 1999. The bill would provide \$2.3 billion in contract authority for the airport improvement program and authorize the appropriation of \$7.8 billion for FAA operations, facilities, and equipment. In addition, the bill would authorize the appropriation of \$6 million a year for the contract tower program, \$250,000 a year from 1999 through 2004 for the Centennial Flight Commission, and \$2 million for fiscal year 1999 to hire additional personnel at the Department of Transportation (DOT).

H.R. 4057 would expand a pilot program that provides for an innovative use of airport improvement grant funds. The Joint Committee on Taxation (JCT) expects that this provision would result in an increase in tax-exempt financing and subsequent loss of federal revenue. JCT estimates a revenue loss over the 1999-2003 period of \$2 million, with additional losses between \$500,000 and \$1 million a year through 2008. Enacting H.R. 4057 could increase collections of civil penalties, which are governmental receipts, but CBO estimates that any such increase in collections would be negligible. Because enacting H.R. 4057 would affect receipts (and could affect direct spending), pay-as-you procedures would apply to the bill.

H.R. 4057 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates it would have an insignificant impact on the budgets of state and local governments and no effect on the budgets of tribal governments. In general the bill would benefit the budgets of state and local governments.

H.R. 4057 would impose private-sector mandates, as defined by UMRA, on domestic and foreign air carriers, the end users of life-limited aircraft parts, and owners and operators of cargo aircraft. CBO cannot determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for

inflation), primarily because of the uncertainty about the cost of marking life-limited aircraft parts. The cost of the other private-sector mandates in the bill would be below the threshold.

## **DESCRIPTION OF THE BILL'S MAJOR PROVISIONS**

Title I would reauthorize FAA's airport improvement program, facilities and equipment program, and operations program. The bill also would prohibit the Secretary of Transportation from selecting a site and beginning construction of the Potomac Metroplex Terminal Radar Approach Facility until the Administrator of the FAA submits a report to the Congress. Title II would authorize the appropriation of \$6 million per fiscal year for the contract tower program.

Title III would amend Title 49 of the U.S. Code so that the Death on the High Seas Act of 1920 (DOHSA) would not apply to aviation incidents. The Warsaw Convention of 1929 and DOHSA provide families of victims of aviation disasters with legal remedies to seek financial compensation for the loss of a family member. The Warsaw Convention is the primary basis for lawsuits related to international airline disasters. Under the Warsaw Convention, families of passengers who die in an aviation disaster can seek limited financial compensation for their loss. Under DOHSA, a family can seek compensation only if the family was financially dependent upon the deceased. The Supreme Court recently ruled that DOHSA applies to lawsuits when an aviation crash occurs more than three miles from land. By making DOHSA inapplicable to aviation incidents, H.R. 4057 would broaden the circumstances under which relatives can seek compensation for the death of a family member in an aviation incident over the ocean. It could also lead to larger awards.

Title IV would amend the aviation insurance program and make clear that an insured party could purchase an additional insurance policy from a third party under which the third party would, in the event of a claim, reimburse the insured party immediately and then seek reimbursement from the federal government. Such a contract would allow parties insured under the aviation insurance program to be assured of immediate reimbursement for any claims.

Title VI would establish a whistleblower protection program for employees of air carriers, or contractors and subcontractors of an air carrier. If a complaint is filed, the Secretary of Labor would conduct an investigation. H.R. 4057 would establish civil penalties for violations of this provision.

Title VII would establish the Centennial of Flight Commission and the First Flight Centennial Advisory Board. The commission would be composed of seven members that

would plan programs and activities for the 100th anniversary of powered flight. The commission would coordinate with other federal agencies to plan activities and programs. The Executive Director and staff of the commission would receive paid compensation. The commission would be able to accept donations of money, personal services, and historic materials. Any donated funds remaining with the commission at the termination of the activities, and after all bills are paid, would be deposited in the general fund of the Treasury. Each fiscal year, the commission would be required to complete a report. In addition, the Comptroller General of the General Accounting Office would be required to audit the financial transactions of the commission and submit a report no later than September 30, 2004. H.R. 4057 would authorize annual appropriations of \$250,000 for the commission.

The bill also would require the Administrator of the FAA to contact all airman by written notification and inform them that their address may be made available to the public unless the FAA is told otherwise.

The bill would authorize the appropriation of \$2 million in fiscal year 1999 to hire or contract for additional personnel to eliminate the backlog of pending equal employment opportunity complaints at DOT. In addition, H.R. 4057 would expand the definition of those required to pay overflight fees to the FAA.

Title VIII would require the Inspector General to complete studies and reports on the Merit System Protection Board and FAA costs and allocations. In addition, the Inspector General would be required to contract with an independent entity to assess the FAA's efficiency and effectiveness.

Finally, H.R. 4057 would require the Secretary of Transportation and the Administrator of the FAA to complete numerous studies and rulemakings, issue guidelines and rules, and publish subsequent reports.

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

CBO estimates that implementing H.R. 4057 would result in additional outlays of about \$10 billion over the 1999-2003 period and a net loss of federal revenues of \$2 million over the same period. The estimated budgetary impact of H.R. 4057 is shown in the following table. The costs of this legislation fall within budget function transportation (400).

	By Fiscal Year, in Millions of Dollars					
	1998	1999	2000	2001	2002	2003
<b>DIRECT SPENDING</b>						
Spending Under Current Law						
Budget Authority	1,935	0	0	0	0	0
Estimated Outlays	0	0	0	0	0	0
Proposed Changes						
Budget Authority	0	2,347	0	0	0	0
Estimated Outlays	0	0	0	0	0	0
Total Spending Under H.R. 4057						
Budget Authority	1,935	2,347	0	0	0	0
Estimated Outlays	0	0	0	0	0	0
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Spending Under Current Law						
Budget Authority <sup>a</sup>	7,178	0	0	0	0	0
Estimated Outlays	8,820	3,342	1,329	623	143	68
Proposed Changes						
Authorization Level	0	7,771	6	6	6	6
Estimated Outlays	0	6,026	2,414	925	561	124
Total Spending Under H.R. 4057						
Authorization Level <sup>a</sup>	7,178	7,771	6	6	6	6
Estimated Outlays	8,820	9,368	3,743	1,549	704	192
<b>CHANGES IN REVENUES</b>						
Estimated Revenues	0	b	b	b	-1	-1

Note: Enacting H.R. 4057 could also affect revenues by increasing collections from civil penalties and from donations for the proposed commission. Any donations would then result in additional direct spending. CBO estimates that the amounts involved would be negligible for both additional revenues and direct spending.

a. The 1998 level is the amount appropriated for that year.

b. Less than \$500,000.

## BASIS OF ESTIMATE

Implementing H.R. 4057 would affect direct spending, spending subject to appropriation, and revenues. In particular, the bill would provide \$2.3 billion in contract authority (a form of direct spending) for the airport improvement program and authorize the appropriation of

\$7.8 billion for the operations and facilities and equipment accounts. All of the outlays from this contract authority would be controlled by annual obligation limitations imposed through the appropriation process. All of the projected outlays controlled by appropriation action, whether from appropriated budget authority or annually limited contract authority, are categorized as spending subject to appropriation. Estimates of outlays are based on historical spending patterns for the affected programs and information provided by DOT and FAA staff.

### **Spending Subject to Appropriation**

For purposes of this estimate, CBO assumes that the amounts authorized for aviation programs will be appropriated for each fiscal year. Because most of the outlays from contract authority are governed by annual obligation limitations in appropriation acts, they are discretionary and are included in the table as estimated outlays subject to appropriation.

H.R. 4057 would provide \$2.3 billion in contract authority for the airport improvement program and authorize the appropriation of \$5.6 billion for FAA operations and \$2.1 billion for facilities and equipment in fiscal year 1999. In addition, the bill would authorize the appropriation of \$6 million a year for a program to contract for air traffic control services at not more than 20 air traffic control towers, \$250,000 for each fiscal year from 1999 through 2004 for the National Flight Commission, and \$2 million in fiscal year 1999 to hire additional personnel at DOT.

H.R. 4057 contains several additional provisions that would require the FAA to conduct studies and complete reports. CBO assumes that all such costs would be funded from the authorization amounts provided in the bill for FAA operations, facilities, and equipment. In total, CBO estimates that studies and reports required by the bill would cost about \$12 million. Of that total, the required assessment of FAA costs and allocations—to be completed by an independent contractor and the DOT Inspector General—would cost \$7.5 million. Costs related to delaying construction and reporting on the Potomac Metroplex Terminal Radar Approach Facility would total about \$1.5 million. CBO estimates that other costs of analysis and reporting would total about \$3 million.

### **Revenues**

H.R. 4057 would expand a pilot program that provides for an innovative use of the airport improvement grant funds to implement innovative financing techniques for airport capital projects. These techniques include payment of interest, purchase of bond insurance, and

other credit enhancement associated with airport bonds. While the first pilot program, enacted in 1996, included these provisions, the early use of the program was geared more toward changing federal/local matching ratios. In addition, the earlier authorization provided for no more than 10 projects. This provision represents an expansion to 20 pilot projects. It is designed to leverage new investment financed by additional tax-exempt debt. JCT expects that this provision would result in an increase in tax-exempt financing and subsequent loss of federal revenue. JCT estimates a loss of revenue of \$2 million over the 1999-2003 period and \$6 million over the 1999-2008 period.

The provisions establishing new civil penalties and allowing the proposed commission to accept donations also could affect revenues, but CBO estimates that any such effects would not be significant.

### **Direct Spending**

Spending from donations to the commission would also constitute additional direct spending, but CBO expects that those amounts, if any, would be negligible.

Amending Title 49 so that the DOHSA would not apply to aviation incidents would probably not have a significant impact on the federal budget. The bill could affect federal spending if the government becomes either a defendant or a plaintiff in a future civil action related to aviation, but CBO has no basis for estimating the likelihood or outcome of any such potential actions.

The airline insurance provision clarifies existing law. Enacting this provision could affect federal spending if the clarification made the aviation insurance program more acceptable to carriers and thereby increased the number of insured flights—and potential claims—under the program. CBO expects, however, that there would be no significant budgetary effect over the next five years.

### **PAY-AS-YOU-GO CONSIDERATIONS**

Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	0	0	0	0	0	0	0	0	0	0
Changes in receipts	0	0	0	0	-1	-1	-1	-1	-1	-1	-1

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

H.R. 4057 would prohibit a state or local government from preventing people associated with disaster counseling services who are not licensed in that state from providing those services for up to 60 days after an aviation accident. This prohibition would constitute an intergovernmental mandate as defined in UMRA. However, because it would not require state or local governments to expend funds, CBO estimates that it would impose insignificant costs on state and local governments.

Overall, the bill would increase the uses of funding from the airport improvement program (AIP) available to state and local governments operating airports. In addition, the percentage of funds earmarked for non-primary and general aviation airports would increase.

The AIP also provides capital improvement grants to the nations 413 primary airports. The formula to distribute these grants would be changed to provide a safety net for smaller airports when AIP funding drops below \$1.35 billion in a given year. In doing so, the bill could result in a reallocation of funds from larger to smaller airports in some years.

Eligibility for grants under the military airport program would be expanded from 12 airports to 15 airports. Finally, the bill would establish a contract tower program and authorize \$6 million to subsidize the cost of air traffic control services at up to 20 locations not currently served by the Department of Transportation air traffic control contract programs.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 4057 would impose private-sector mandates, as defined by UMRA, on domestic and foreign air carriers, the end users of life-limited aircraft parts, and owners and operators of cargo aircraft. CBO cannot determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation), primarily because of the uncertainty about the cost of marking life-limited aircraft

parts. The cost of the other private-sector mandates in the bill would fall below the threshold.

### **Air Carrier Plans**

Sections 302 and 303 would add new requirements to the plans to address the needs of families of passengers involved in aircraft accidents. Currently both domestic air carriers that hold a certificate of public convenience and necessity and foreign air carriers that use the United States as a point of embarkation, destination, or stopover are required to submit and comply with those plans. This bill would require that as part of those plans air carriers give assurance that they would provide adequate training to their employees and agents to meet the needs of survivors and family members following an accident. In addition, domestic air carriers would be required to provide assurance that upon a request from a passenger's family, the air carrier would inform them if the passenger's name appeared on the preliminary manifest. Updated plans would have to be submitted to the Secretary of Transportation and the Chairman of the National Transportation Safety Board on or before the 180th day following enactment.

The bill does not specify what level of training would be adequate for air carriers to be able to provide required assurance. Based on information from representatives of air carriers, CBO concludes that the major domestic and foreign air carriers and some smaller carriers currently provide training to deal with the needs of survivors and family members following an accident. In addition, the domestic carriers provide flight reservation information upon request as would be required under H.R.4057. Although the bill does not specify how air carriers would provide an assurance of adequate training, CBO estimates that the cost of meeting those additional requirements would be small.

### **Whistleblower Protection**

Title VI would protect employees of air carriers, contractors, or subcontractors that provide air safety information to the United States Government. Those firms would not be able to discharge or discriminate against such employees with respect to compensation, terms, conditions, or privilege of employment. Based on information provided by a major air carrier and the Occupational Safety and Health Administration, the agency that would enforce those provisions, CBO estimates that neither the air carriers nor their contractors would incur any direct costs in complying with the whistleblower protection.



## **End Users of Life-Limited Aircraft Parts**

Section 809 would require the permanent marking of all civil aircraft parts that exceed their useful life when they are removed from an aircraft. The bill would also require that the FAA conduct a rulemaking procedure to determine the most effective method of such marking. Representatives of the industry and FAA are not able to estimate the economic impact of this requirement, since both the method of marking and the number of life-limited aircraft parts that would be affected by this mandate are currently not known.

## **Cargo Aircraft Owners and Operators**

Title V would mandate that a cargo collision avoidance system be installed on each cargo aircraft with a payload capacity of 15,000 kilograms or more by December 31, 2002. Cargo industry representatives say they are currently developing a collision avoidance system and expect it to be installed in such cargo aircraft by the deadline. Thus, CBO estimates that cargo aircraft owners and operators would not incur any additional costs from passage of this bill.

## **PREVIOUS CBO ESTIMATES**

On July 9, 1998, CBO provided a cost estimate for H.R. 4058, as reported by the House Committee on Transportation and Infrastructure on June 25, 1998. Section 401 of H.R. 4057 is identical to a section in H.R. 4058 pertaining to aviation insurance and third-party liability.

On July 24, 1997, CBO provided a cost estimate for H.R. 2005, as reported by the House Committee on Transportation and Infrastructure on July 23, 1997. Section 304 of H.R. 4057 is virtually identical to H.R. 2005.

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